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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,857	06/27/2003	Roger K. Engel	3249CIP	7102
7590 02/08/2006				
Niro, Scavone, Haller & Niro Suite 4600 181 W. Madison Chicago, IL 60602				
			EXAMINER KRISHNAMURTHY, RAMESH	
			ART UNIT 3753	PAPER NUMBER

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/607,857

Applicant(s)

ENGEL ET AL.

Examiner

Ramesh Krishnamurthy

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,3,4,5,8,9,10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/10/2006 has been entered.

**Claims 1 – 5 and 8 – 10 are pending.**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 – 5 and 8 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "said inner rail" at line 4. This limitation lacks sufficient antecedent basis in the claim. Also, the limitation "having a uniform thickness and elevation mounted" recited in line 3 appears to be incomplete.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 5 and 8 - 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Domke (US 5,727,881).

Domke '881 discloses (Figs. 1 – 3) a pressure relief valve comprising: a self-supporting base (11) mountable to a support surface (2) and having a first layer defining inner aperture (15) and an inner rail (21,22) having a uniform thickness and elevation mounted on said base, comprising a pair of strips (Fig. 1) defining a passageway recessed from said inner aperture and in communication with said inner aperture; a flexible film (12) mounted to said inner rail, said film moveable between an open and closed position; in said open position said film is located above said aperture and extends outwardly beyond said base; and in said closed position, said film covers said aperture. The inner rail (21, 22) is positioned between the film (12) and the base (11) and forms a rectangular passage (Fig. 1). The base is disclosed to be made of plastic which here is taken to include all known plastics including polyethylene Terephthalate which the applicant has declared to be a plastic material known in the art (Specification, page 4, paragraph 3, lines 2 – 4). Figure 3 of Domke '881 discloses the thickness of the rails (21, 22) to be between 1 – 10 mm.

### **Response to Arguments**

Applicant's arguments with respect to claims rejected above have been considered but are not persuasive. Applicant's argument that Domke reference does not depict the inner rails located between the flexible film and the base is unpersuasive. As set forth above Domke does disclose the inner rail (21, 22) to be positioned between the film (12) and the base (11). As for the argument "In the configuration described in Figure 3 of Domke, the flexible film does not adequately provide for the necessary movement of the flexible film as required in the current invention", it is noted

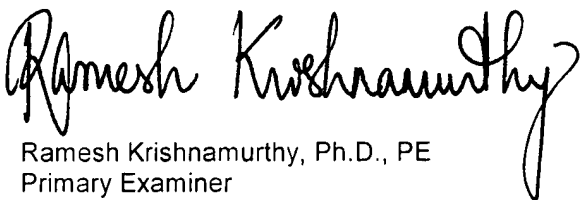
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that the arrangement in Domke '881 patent meets the corresponding limitation in claims in the instant application that merely call for the flexible film to be moveable between an open and closed position and in said open position the film to be located above said aperture and extend outwardly beyond the base (See Col. 2, lines 38 – 40).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached on (571) 272 – 4929. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy, Ph.D., PE  
Primary Examiner  
Art Unit 3753